

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CHARLES A. EDWARDS,
Plaintiff,
v.
D. SMITH,
Defendant

1:20-cv-01822-GSA (PC)

ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL

On May 3, 2021, plaintiff filed a motion seeking the appointment of counsel. Plaintiff does not have a constitutional right to appointed counsel in this action, Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), and the court cannot require an attorney to represent plaintiff pursuant to 28 U.S.C. § 1915(e)(1). Mallard v. United States District Court for the Southern District of Iowa, 490 U.S. 296, 298, 109 S.Ct. 1814, 1816 (1989). However, in certain exceptional circumstances the court may request the voluntary assistance of counsel pursuant to section § 1915(e)(1). Rand, 113 F.3d at 1525.

Without a reasonable method of securing and compensating counsel, the court will seek volunteer counsel only in the most serious and exceptional cases. In determining whether exceptional circumstances exist, the district court must evaluate both the likelihood of success of the merits [and] the ability of the [plaintiff] to articulate his claims *pro se* in light of the complexity of the legal issues involved.

1 Plaintiff seeks counsel because he does not know how to file a motion without assistance.
2 This does not make plaintiff's case exceptional under the law. At this early stage in the
3 proceedings, the court cannot make a determination that plaintiff is likely to succeed on the
4 merits. Plaintiff's complaint awaits the court's screening required under 28 U.S.C. § 1915. Thus,
5 to date the court has not found any cognizable claims in plaintiff's complaint for which to initiate
6 service of process, and no other parties have yet appeared. The legal issue in this case, whether
7 defendants used excessive force against plaintiff, is not complex. Moreover, based on a review of
8 the record in this case, the court finds that plaintiff can adequately articulate his claims.

9 Therefore, plaintiff's motion shall be denied, without prejudice to renewal of the motion at
10 a later stage of the proceedings.

11 For the foregoing reasons, plaintiff's motion for the appointment of counsel is HEREBY
12 DENIED, without prejudice.

13 IT IS SO ORDERED.
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15 Dated: May 6, 2021

/s/ Gary S. Austin

16 UNITED STATES MAGISTRATE JUDGE

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